

# Updates from the Common Interest Community Board

Joseph C. Haughwout, Jr. | Board Administrator

# CIC Board Members

- Maureen A. Baker | CIC Manager
- Matt Durham | Citizen Residing in CIC
- Jim Foley | CIC Manager
- Eileen M. Greenberg | Citizen Serving on Association Board
- Amanda Jonas | Developer
- David S. Mercer | CIC Attorney | *Vice Chair*
- Drew R. Mulhare | CIC Manager | *Chair*
- Lori Overholt | Time-Share Industry
- Anne M. Sheehan | CPA
- Scott E. Sterling | Developer
- Katherine E. Waddell | Citizen Residing in CIC

# DPOR Leadership Changes

- Demetrios “Mitch” Melis | Director
- Kishore Thota | Chief Deputy Director
- Stephen Kirschner | Deputy Director for Licensing & Regulatory Programs
- Tom Payne | Deputy Director for Compliance & Investigations
- Kerri O’Brien | Communications & Digital Media Manager
- Jennifer Sayegh | Policy & Legislative Affairs Manager
- Leonard Nottingham | Director of Information Technology

# Overview

- Update on Board Operations
- Senate Bill 740
- Senate Bill 693
- Regulatory Updates
- Fees for Disclosure Packets/Resale Certificates

# Update on Board Operations

- Governor Ralph Northam's COVID-19 emergency declaration lifted in June 2021.
- Emergency regulatory waivers expired in July 2021.
- DPOR re-opened to public for customer service in August 2021.
- Board's call center under normal operating schedule: 8:15 a.m. to 5:00 p.m.
- All Board meetings held at physical location.

# Senate Bill 740

- Directs DPOR to establish a workgroup to study the adequacy of current laws addressing standards for structural integrity and for maintaining reserves to repair, replace, or restore capital components in common interest communities.
- Workgroup composed of representatives of various stake holder interests.
- Workgroup is not a CIC Board workgroup or committee.
- CIC Board office involved in assisting with planning, logistics, etc.
- Membership includes the CIC Ombudsman and one CIC Board member.

## Senate Bill 693

- Directs the CIC Board to review the feasibility of allowing audio and video recordings to be submitted with a notice of final adverse decision.
- Report due by November 1, 2022.
- In conducting its review, the Board shall (i) solicit and consider public comments; (ii) identify pertinent statutory and regulatory amendments necessary to allow for the submission of audio and video recordings in accordance with the provisions of this act; (iii) identify any impediments to the submission of audio and video recordings, including information technology limitations and compliance with the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia) and other public records laws; and (iv) consider whether allowing the submission of audio and video recordings pursuant to the provisions of this act would assist the Common Interest Community Ombudsman in the performance of his duties with respect to any notice of final adverse decision.

## Senate Bill 693 (continued)

- Board authorized formation of committee on June 9, 2022.
- Committee Membership
  - Lori Overholt | CIC Board Member | *Chair*
  - Matt Durham | CIC Board Member, Citizen Residing in a CIC
  - Paul Orlando | former CIC Board Member, Citizen Residing in a CIC
  - Sue Tarley | CIC Attorney
  - Jerry Wright | CIC Attorney
  - Heather Gillespie | CIC Ombudsman | *Non-voting member*
  - Drew Mulhare | CIC Board Chair | *Ex-officio*

## Senate Bill 693 (continued)

- Public comment period from July 26, 2022, to August 9, 2022.
  - Public hearing held on August 9, 2022.
- First Committee meeting held on August 9, 2022.
- Staff prepared draft report.
- Second Committee meeting held on September 22, 2022.
  - Reviewed public comments received.
  - Adopted revised draft report, along with findings and conclusion.
- Board considered Committee findings and conclusion on September 22, 2022.

## Senate Bill 693 (continued)

- Based on the committee's conclusion, the Board recommends against any legislative or regulatory changes to allow for the submission of audio and video recordings with notice of final adverse decision.
- Final report is being prepared.

# Regulatory Actions Update

- Common Interest Community Association Registration Regulations (18VAC48-60) - Final.
- Amendments effective September 1, 2021.
- Name of regulations changed to Common Interest Community Association Registration Regulations.
  - Formerly Common Interest Community Management Information Fund Regulations.
- Clearer procedures for renewal of a registration, including a one-year timeframe for an association to renew.
  - An association that does not renew during that timeframe must reapply by submitting a new registration application.
- New section that comprehensively outlines association registration requirements, including potential consequences outlined in statute for associations that fail to comply.

# Regulatory Actions Update (continued)

- Common Interest Community Manager Regulations (18VAC48-50) – Proposed.
- Licensure regulations for management companies and certification for certain employees of management companies.
- Board authorized general regulatory review action and committee on March 4, 2021.
- Regulatory review committee met several times in Fall 2021 and Winter 2022.
- Committee recommendations for amendments adopted February 14, 2022.
- Board considered and adopted recommendations, with revisions, on March 3, 2022.
- Regulatory action is in Executive Branch review.

# Regulatory Actions Update (continued)

- Common Interest Community Ombudsman Regulations (18VAC48-70).
- Establishes requirements for CIC association complaint procedures and review of notice of final adverse decisions by CIC Ombudsman.
- Anticipate Board will authorize general regulatory review and formation of review committee at the December 8, 2022, meeting.

# Disclosure Packet/Resale Certificate Fees

- POAs and condominium unit owners' associations permitted by law to collect reasonable fees to prepare disclosure packets or resale certificates. Maximum amount of fees established by law.
- Board publishes advisory bulletins on the maximum fees that may be charged for services per statute; along with other important information.

# Disclosure Packet/Resale Certificate Fees (continued)

- Bulletins recently revised to include information on when fees may be collected.

Sample:

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Pursuant to § 55.1-1810(D) of the POA Act, fees shall be collected ***at the time of settlement*** on the sale of the lot and shall be due and payable out of the settlement proceeds. Neither the association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request is made for the association disclosure packet.

## Disclosure Packet/Resale Certificate Fees (continued)

- Maximum fees for professionally-managed POAs and condominium unit owners' associations adjusted every five years based on inflation.
- Last adjustment occurred in 2018.
- Next adjustment will occur in 2023.
- Board expected to review adjustment to fees at the December 8, 2022, meeting.

- CIC Board Newsletter
- *Common Interests*
- [www.DPOR.Virginia.gov/Boards/CIC-Board/](http://www.DPOR.Virginia.gov/Boards/CIC-Board/)

Spring 2022 Edition

# Common Interests



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## Disclaimer:

The information in this newsletter is intended to provide a summary of various updates and actions. It does not contain all information and should not be relied upon exclusively. Please contact the Board's office if you would like more information regarding the topics covered in this newsletter.

*The Newsletter of the Virginia Common Interest Community Board*

## *An Update from the Executive Director...*

Happy Spring! This is the Spring 2022 edition of *Common Interests*, the newsletter for the Common Interest Community Board. The past several months have been a period of exciting change and transition for DPOR and the Board.

In January 2022, Governor Glenn Youngkin appointed Demetrios "Mitch" Mells to be Director of DPOR, replacing Mary Broz-Vaughan. Mitch returns to DPOR after having served as Director of Regulatory Compliance for the Virginia State Bar. Previously, Mitch was a member of the staff at DPOR. From 2006 to 2018, he served in several roles, including working in the investigations section, and as a board administrator. Most recently, Mitch was the Executive Director for the Board for Barbers and Cosmetology, and the Board for Hearing Aid Specialists and Opticians from 2012 to 2018.

In March 2022, DPOR welcomed a new Chief Deputy Director, Kishore Thiota. Kishore brings to DPOR his experience working in both the public and private sectors as a technology professional. Kishore has worked with Fortune 500 companies, financial technology firms, and state governments. Most recently, Kishore was a Business Development Manager at CapTech Consulting. Kishore is helping to lead and develop improvements throughout the agency, with an emphasis on technology and data reporting.

In September 2021, Tom Payne joined DPOR as a Deputy Director. Tom comes to DPOR after having served in the Office of Attorney General most recently as the Section Chief/Sr. Assistant Attorney General for that agency's Office of Civil Rights (OCR). During his 16-year tenure at OAG, Tom served as DPOR's fair housing counsel in addition to overseeing OCR's employment discrimination investigations and other functions. Tom directs DPOR's regulatory compliance, investigation, and adjudication functions. The Department is in the process of hiring a Deputy Director for Licensing.

Aside from these leadership changes, the Board's office monitored several pieces of legislation related to common interest communities throughout the recent General Assembly session. One of these measures, SB 740, requires DPOR to establish a work group to study the adequacy of current laws addressing standards for structural integrity and for maintaining reserves to repair, replace, or restore capital components in common interest communities (see Page 24 for more information on 2022 legislation).

DPOR continues to emerge from the challenges imposed by the COVID-19 pandemic. At the end of June 2021, the state of emergency declared by then-Governor Northam was lifted. In August 2021, the Department reopened to the public for customer service. The Board's call center has returned to its normal operating schedule of 8:15 a.m. to 5:00 p.m.

The Board recently completed a significant regulatory action. In September 2021, the

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